

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Dennis A. Smith

v.

Civil No. 07-cv-119-SM

NH Department of Corrections,
Commissioner, et al.

O R D E R

On July 21, 2008, the Deputy Clerk forwarded to me for ruling Document No. 90, Mr. Smith's "Motion to Waive Fed. R. Civ P. 5(d)" and the Objection. In an effort to understand the motion and objection, I spent over one hour searching the docket for the objection and motion of July 7, 2008 referenced by Mr. Smith in his "Motion to Waive". No such documents were docketed.

On July 22nd, the Deputy Clerk forwarded "hard copies" of the Objection and Motion date stamped as received by the court on July 7th with a related note that they were referenced in Document no. 90. Neither document has been docketed or scanned into CM/ECF as required. The notice of non-compliance with Fed. R. Civ. P. 5(d) sent to Mr. Smith is plainly wrong since the interrogatories were clearly used by Mr. Smith "in the proceeding."

The court apologizes to Mr. Smith for the court's failure.

On the merits, Mr. Smith's "Objection" is well-founded. The copies of interrogatories sent to him by counsel are not legible. Defendant is ordered to serve the original answers to interrogatories - not illegible photo copies. Second, the answers to Wrenn interrogatories 5 and 11 and Heath interrogatories 20, 28 and 29 are not sufficiently responsive. Counsel is ordered to supplement within ten (10) days. The Clerk is ordered to docket the "Objection" and "Motion" received forthwith. When docketed, the docket is to note that they are granted by this order.

Document no. 90 is denied as moot.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: July 23, 2008

cc: Dennis A. Smith, pro se
Danielle Leah Pacik, Esq.